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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SER LAO, as an individual and on behalf
of all others similarly situated,

Case No. 5:16-cv-333 EJD

Plaintiffs,

VS.

H & M HENNES & MAURITZ, L.P., a
New York limited partnership; and DOES
1 through 50, inclusive,

Defendants.

**DECLARATION OF DENNIS S. HYUN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 30, 2020

Time: 9:00 a.m.

Courtroom: 4, 5th Floor

Judge: Hon. Edward J. Davila

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1 **DECLARATION OF DENNIS S. HYUN**

2 I, DENNIS S. HYUN, hereby declare and state as follows:

3 1. I am an attorney at law duly admitted to practice before all courts in the State of
4 California and am a member of the law firm of the Hyun Legal, APC, one of the attorneys of
5 record for Plaintiff Ser Lao (“Plaintiff”), in the above entitled action.

6 2. I have personal knowledge of the matters set forth herein, and if called upon as a
7 witness to testify thereto, I could and would competently do so.

8 3. I am one of the primary attorneys on this matter. My qualifications are as
9 follows: I received my JD from Loyola Law School in 2002. I was named to the Dean’s Honor
10 List from 2000-2002. During law school, I was a Senior Research Editor for Loyola
11 International & Comparative Law Review. I was also a research assistant for Professor
12 Levenson, an extern at the U.S. District Court for the Honorable Audrey B. Collins, and a clerk
13 at the U.S. Attorney’s Office, Criminal Division. I also served as a summer law clerk at the
14 white-collar criminal defense firm, Lightfoot, Vandevelde, *et al.*, which became part of Crowell
15 & Moring LLP. Upon graduation from law school, I served as a research attorney in the Los
16 Angeles County Superior Court for the Hon. J. Stephen Czuleger, the Hon. Owen Lee Kwong,
17 the Hon. Laurie D. Zelon, and the Hon. Joanne B. O’Donnell. After my clerkship ended, I
18 practiced as a labor and employment associate for the next 8 years, including most recently as a
19 senior associate at Seyfarth Shaw LLP, one of the most prestigious labor and employment law
20 firms in the country, as well as DLA Piper LLP (US), the largest law firm in the world, and
21 Morgan, Lewis & Bockius LLP. I am currently a shareholder in the law firm Hyun Legal, APC.

22 4. My primary practice has been employment law throughout my entire private
23 career. I have handled a number of wage and hour matters including class actions and individual
24 actions, on behalf of plaintiffs and defendants. I have a practice that encompasses cases in the
25 Orange County Superior Courts, the Los Angeles County Superior Courts, the San Diego County
26 Superior Courts, the United States District Courts for the Southern, Central, Northern and
27 Eastern Districts of California, the California Court of Appeal, and the Ninth Circuit.

1 5. I have served as Class Defense Counsel in a number of wage and hour class
 2 actions, including but not limited to: *Bradley v. Networkers Int'l, LLC*, 211 Cal. App. 4th
 3 1129 (2012); *Chiu v. Citrix Systems, Inc.*, C.D. Cal. Case No. SACV11-01121 DOC (RNBx);
 4 *Hodge v. Aon Insurance*, Los Angeles Sup. Ct. Case No. BC 265725; *Hoyng v. Aon Insurance*,
 5 Los Angeles Sup. Ct. Case No. BC 377184; *Jimenez v. Allstate Ins. Co.*, C.D. Cal. Case No.
 6 CV10-08486 JAK (FFMx); *Marino v. BP West Coast Products*, Los Angeles Sup. Ct. Case No.
 7 BC 357987; *McEntee v. Ryland Homes*, Los Angeles Sup. Ct. Case No. BC 390868; *McKinstry*
 8 *v. Accenture*, C.D. Cal. Case No. SACV11-1335 DOC (ANx); *Munoz v. Decron Properties*, Los
 9 Angeles Sup. Ct. Case No. BC387644; and *Rodriguez v. BP West Coast Products*, Los Angeles
 10 Sup. Ct. Case No. BC 350736. As defense counsel, I have taken over 50 class member and
 11 individual/representative plaintiff depositions. I have drafted class certification and
 12 decertification papers, including in *Bradley*, which was initially affirmed by the Court of Appeal,
 13 but reversed pursuant to *Brinker v. Superior Court*, 53 Cal. 4th 1003 (2012).

14 6. Currently, I am and/or was lead plaintiff's counsel in the following wage and hour
 15 class or representative actions: *Asad v. Chevron Stations, Inc.*, Los Angeles Sup. Ct. Case No.
 16 BC470198; *Barrera v. Home Depot (USA), Inc.*, N.D. Cal. Case No.: C 12 5199 LHK (HRL);
 17 *Bararsani v. Coldwell Banker*, Los Angeles Sup. Ct. Case No. BC495767; *Barreras v. Michaels*
 18 *Stores, Inc.*, N.D. Cal. Case No. C12-04474 PJH; *Brown v. CVS Pharmacy, Inc.*, C.D. Cal. Case
 19 No. 2:15-cv-07631-PSG-PJW; *Chatman v. RMI Int'l, Inc.*, Los Angeles Sup. Ct. Case No. BC
 20 495755; *Chavez v. Converse, Inc.*, N.D. Cal. Case No. 15-cv-03746-NC; *Dynabursky v.*
 21 *AlliedBarton, LLC*, et al., C.D. Cal. Case No. 8:12-cv-02210-JLS-RNB; *Gonzales v. Wells*
 22 *Fargo Bank, N.A.*, Los Angeles Sup. Ct. Case No. BC502826; *Lao v. H&M Hennes & Mauritz*,
 23 N.D. Cal. Case No. 5:16-cv-333 EJD; *Lee v. The Pep Boys Manny Moe & Jack of California*,
 24 Los Angeles Sup. Ct. Case No. BC 496075; *Magadia v. Wal-Mart Assocs.*, N.D. Cal. Case No.
 25 5:17-cv-00062-LHK; *Naranjo v. Bank of America, N.A.*, N.D. Cal. Case No. C 14-02748 LHK;
 26 *Ortegon-Ramirez v. Cedar Fair*, Santa Clara Sup. Ct. Case No. 1-13-CV-254098; *Pace v.*
 27 *PetSmart, Inc.*, C.D. Cal. Case No. SACV13-500 DOC; *Rodriguez v. NIKE Retail Services, Inc.*,

1 N.D. Cal. Case No. 5:14-CV-1508 BLF; *Stafford v. Brink's, Incorporated*, Case No. CV 14-
 2 01352 MWF (PLAx) and *Vass v. Gardner Trucking*, San Joaquin Sup. Ct. Case No. 39-2013-
 3 294819-CU-OE-STK. Additionally, in *Chavez*, Case No. 15-cv-03746-NC, *Dynabursky* Case
 4 No. 8:12-cv-02210-JLS-RNB, *Pace*, Case No. SACV13-500 DOC, *Rodriguez*, Case No. 5:14-
 5 CV-1508 BLF, *Stafford*, Case No. 14-01352 MWF (PLAx), *Gonzales*, Los Angeles Sup. Ct.
 6 Case No. BC502826, and *Magadia*, Case No. 5:17-cv-00062-LHK, I was certified as class
 7 counsel pursuant to the plaintiff's motion for class certification. Further, in *Stafford* and
 8 *Magadia*, we tried these certified class claims via bench trial and prevailed. In *Magadia*, we
 9 obtained a \$102 million judgment for the class against Walmart. Moreover, I have been
 10 approved as class counsel in connection with numerous class settlements.

11 7. Each side has apprised the other of their respective factual contentions, legal
 12 theories and defenses, resulting in extensive arms' length negotiations taking place among the
 13 Parties, including one full day of mediation and a settlement conference before the Honorable
 14 Nathanael M. Cousins. Based on their own independent investigation and evaluation, the Parties
 15 and their respective counsel are of the opinion that the Settlement for the consideration and on
 16 the terms set forth in the Class Action Settlement Agreement are fair, reasonable, and adequate
 17 and the settlement is in the best interests of the Settlement Class and Defendant in light of all
 18 known circumstances and the expenses and risks inherent in litigation.

19 8. Plaintiff's counsel conducted extensive investigation and discovery, including
 20 formal written discovery; contacting and interviewing then-putative class members; taking and
 21 defending numerous depositions, including that of Plaintiff, Defendant's FRCP 30(b)(6)
 22 Corporate Representatives, over 40 class members, and Plaintiff's expert; subpoenaing and
 23 reviewing relevant records from third parties; exchanging class time and payroll data and
 24 documents; and conducting expert discovery.

25 9. Plaintiff also believes in the fairness of the settlement that is based on factoring in
 26 the uncertainty and risks to Plaintiff involved in not prevailing on his certified class claims at
 27 trial and the possibility of appeals.

1 10. Plaintiff and Plaintiff's counsel are adequate representatives in that they have no
 2 conflicts with the class and will adequately represent the class.

3 11. Plaintiff's counsel does not have any relationship with Legal Aid at Work or with
 4 the Ali Forney Center.

5 12. A list of the ten most recent cases over the last two years in which Phoenix
 6 Settlement Administrators was appointed as the settlement administrator in cases involving my
 7 office are as follows:

- 8 a. *Constance Davis v. Nugget Markets*, Case No. 18-CV-558 (Yolo County)
- 9 b. *Greg Vazquez v. Pride Conveyance Systems, Inc.* – Case No. CU-18-00196 (San
 Benito County)
- 10 c. *John Hernandez v. Castle Aura* – Case No. 17CIV05079 (San Mateo County)
- 11 d. *Dwight Jenkins v. Cardinal* – Case No. 34-2018-00238308 (Sacramento)
- 12 e. *Sarahi Lopez v. King Taco* – Case No. BC664175 (Los Angeles County)
- 13 f. *Cindy Banuelos vs. Southern Monterey County Memoria Hospital*, Case No.
 17CV000671 (Monterey County)
- 14 g. *Ronilo Huertas v. Chevron Stations*, Case No. 17CV309996 (Santa Clara County)
- 15 h. *Melikyan v. SMSSI* – Case No. BC644667 (Los Angeles County) (*PAGA*)
- 16 i. *Anthony Humphrey vs. Gold Star Motors, Inc.* – Case No. 16CV004119 (Monterey
 County)
- 17 j. *Vanessa Carabajal v. Shapell* – Case No. BC586952 (Los Angeles County).

18 13. On April 19, 2018, I was finally approved as class counsel by the United States
 19 District Court, Central District of California in a comparable class action settlement, *Eric Chavez*
 20 *v. Adidas America, Inc.* (Case Number 5:16-cv-06533-LHK). The *Chavez* settlement similarly
 21 involved issues relating to time spent waiting and undergoing security checks that were
 22 conducted off-the-clock, as well as issues relating to the defendant's issuance of final wages via
 23 pay cards. The *Chavez* settlement was also non-reversionary, and did not require any claim
 24 forms. The following chart details the information regarding the *Chavez* settlement:

• Total settlement fund	\$1.5 million
• Total number of class members	4,023
• Total number of class members to whom notice was sent	4,023

1	• Method of notice distribution	First Class U.S. mail, postage prepaid
2	• Average recovery per class member	\$245.90
3	• Amounts distributed to cy pres recipient	\$34,820.97 to State Treasury (Trial Court Improvement and Monetization Fund); \$34,820.97 to State Treasury (Equal Access Fund of the Judicial Branch); \$69.641.94 to Legal Aid Employment Law Section
4	• Administrative costs	\$27,000
5	• Attorneys' fees	\$375,000
6	• Costs	\$18,935.49
7	• Class representative enhancement	\$10,000

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on March 6, 2020, at Los Angeles, California.

/s/ Dennis S. Hyun

Dennis S. Hyun